FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 98–147, FCC 99–48]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, we propose to establish certain spectrum compatibility and management rules in order to promote the timely deployment of advanced services without significantly degrading the performance of other advanced services or traditional voice band services. These rules rest upon currently established technical standards and practices. We recognize that, in the long term, more comprehensive standards and practices must be developed. The Commission is therefore issuing this Further Notice of Proposed Rulemaking (FNPRM) seeking comment on proposed regulations to resolve, in a timely manner, the host of long-term spectrum compatibility and management issues. In addition, the FNPRM tentatively concludes that it is technically feasible for two different carriers sharing a single line to provide traditional voice service and advanced services. The FNPRM seeks comment on a host of issues associated with the ramifications of mandating such line sharing.

DATES: Comments are due on or before June 15, 1999 and Reply Comments are due on or before July 15, 1999. Written comments by the public on the proposed information collections are due June 15, 1999.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW–A325, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 445 12th Street, S.W., Room 5–C327, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th St., N.W., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Staci Pies, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking adopted March 18, 1999 and released March 31, 1999. The full text of this FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th St., S.W., Room CY–A257, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9948.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Synopsis of Further Notice of Proposed Rulemaking

A. Spectrum Compatibility—Long-Term Standards and Practices

1. Overview

1. In the *Advanced Services Order and NPRM* 63 FR 45134, August 24, 1998, we requested comment on loop spectrum issues. We asked commenters to address any degradation of service that may result from provision of advanced services using different signal formats on copper pairs in the same bundle. In the Order, we establish spectrum compatibility and management rules to the extent currently feasible in order to promote the timely deployment of advanced services without significantly degrading the performance of other advanced services or traditional voice band services. These rules rest upon currently established technical standards and practices. We recognize that, in the long term, more comprehensive technical standards and practices must be developed. We therefore adopt this Further NPRM, through which we hope to resolve, in a timely manner, the host of long-term spectrum compatibility and management issues.

2. Discussion

2. In the companion Order, we find that incumbent LECs may not unilaterally set spectrum compatibility and spectrum management policies. In place of incumbent LEC-determined standards and practices, we found in the companion Order that there should be a competitively neutral spectrum standards setting process to investigate the actual level of interference between technologies to determine what technologies are deployable and under what circumstances. In this Further NPRM, we tentatively conclude that this process should include the active participation of the incumbent LECs, competitive LECs, equipment suppliers, and the Commission. We further tentatively conclude the following: the process should be competitively neutral in both structure and procedure; representation should be equitably spread over all segments of the industry; and representatives should have equal authority, with no party or groups of parties presuming to have greater weight or ''veto'' power. We seek comment on these tentative conclusions and how to establish such a process to develop long-term standards and practices. We also seek comment on our authority to direct industry bodies to engage in the process of developing spectrum compatibility and management policies, and our authority to compel industry bodies to adhere to any requirements we establish for the functioning of such bodies.

3. In this Further NPRM we seek comment on two broad and interrelated issues: spectrum compatibility and spectrum management. With regard to spectral compatibility, we generally believe, as indicated in the Order, that the industry, via its standards bodies, can create acceptable standards for xDSL and other advanced services. Much of the standards development process is continuous in nature, and our hope is that the industry will fairly and expeditiously develop standards beyond completion of this proceeding. Future technologies will require the T1E1.4, or other standards bodies, to develop these compatibility standards in a timely, fair, and open manner. We believe, however, that the Commission can play a role in fostering timely, fair, and open development of standards for current and future technologies.

4. We seek comment on the best process or forum for developing future power spectral density (PSD) masks. We tentatively conclude that T1E1.4 is the best choice for this task. Commenters have expressed concern, however, that T1E1.4 is not representative of the developing advanced services industry as a whole and may be overly represented by incumbent carriers and large manufacturers. We seek comments on how to foster broader representation and participation in this standards body. We also ask commenters to suggest other forums or methods of guaranteeing fair and timely resolution of spectrum compatibility problems.

5. We seek comment on whether generic masks would be an appropriate means to address spectrum compatibility. We seek comment on whether this approach might restrict deployment of technologies that otherwise would not harm the network.

6. We seek comment on whether a calculation-based approach, in addition

to a power spectral density mask-based approach, provides a better tool for defining spectral compatibility We specifically seek comment whether such an approach provides a more accurate predictor of spectrum compatibility.

7. With regard to spectrum management, we believe that comments in response to this Further NPRM can provide the information necessary to establish long-term spectrum management rules. Our goal is that the rules developed as a result of the Further NPRM will encourage technical innovation while preserving network reliability. Although we believe that T1E1.4 could serve as the common ground where industry resolves these issues, we think the Commission can facilitate industry development of fair standards through this Further NPRM. We seek specific comment and clarification on the following items initially raised in the NPRM, but not sufficiently explicated in the record.

8. We seek comment on methods to encourage the industry to develop fair and open practices for the deployment of advanced services technologies. We tentatively conclude that T1E1.4 should serve as the forum to establish fair and open deployment practices. This conclusion is premised on the assumption that a method will be developed by which to ensure the active participation of all segments of the industry in T1E1.4. What role should the Commission play in facilitating broad participation in this process?

9. We ask commenters to consider how to maximize the deployment of new technologies within binder groups while minimizing interference. We seek comment on the development of xDSL binder group administration practices, including specifications on the types and numbers of technologies that can be deployed within a binder group. This should include procedures allowing for deployment of various xDSL-based services in a nonrestrictive manner. We seek comment on the procedures for maintaining and updating these administrative practices so as to minimize interference with future technologies. We seek comment on the practice of segregating services based on the technology. For example, we recognize AMI T1 as a potential disturber and understand that incumbent LECs currently assign AMI T1 to separate binder groups. Competitive LECs have expressed concern that incumbent LECs might apply a similar segregation practice to xDSL technology—a practice competitive LECs claim is not necessary or beneficial. We seek comment on whether to allow incumbent LECs to segregate xDSL technology in such a manner.

10. We seek comment on whether we should establish a grandfathering process for interfering technologies. For example, should the Commission establish a sunset period for services such as AMI T1? As noted above, we recognize that carriers have a substantial base of AMI T1 in deployment and that in some areas AMI T1 provides the only feasible high-speed transmission capability. We seek comment on whether carriers should be required to replace AMI T1 with new and less interfering technologies, and, if so, what time frame would be reasonable. We ask commenters to propose rules for a possible grandfathering process which will not disrupt the network and simultaneously encourage investment in, and deployment of, new technology.

11. We seek comment on whether to develop a dispute resolution process regarding the existence of disturbers in shared facilities. Specifically, we ask commenters to suggest how best to resolve disputes arising out of claims that a technology is ''significantly degrading'' the performance of other services. We also seek comment on whether, and if so, how we should define ''significantly degrade'' so as to ensure that consumers have the broadest selection of services from which to choose without harming the network. If we develop a dispute resolution process, should it rely on an outside party as an arbitrator, such as the state commission, the FCC, or a neutral third party, or should the procedures simply provide the rules by which players must conform?

12. We seek comment to determine whether the Commission should solicit the assistance of a third party in developing loop spectrum management policies. What role could such a third party serve in facilitating communication between the industry and regulatory bodies? Should it serve a role similar to the role served by the administrator for local number portability? Should it be empowered to develop binder group management procedures, facilitate the development of future PSD masks, and resolve disputes between carriers over the existence of disturbers in shared facilities? We also ask parties to comment on whether a voluntary industry effort could effectively address loop management issues.

13. We acknowledge that the industry, via the T1E1.4, is currently engaged in developing standards for various varieties of xDSL technologies. We recognize further that the industry can best address many of the details concerning spectral compatibility. Furthermore, we acknowledge that many of the spectral compatibility issues will require on-going analysis and oversight beyond the completion of this proceeding. Although we have initiated this Further NPRM in order to develop rules to address long-term spectrum management concerns, we expect that the industry, via the T1E1.4 or other bodies, will continue to develop standards and procedures to promote deployment of advanced services and resolve the problems that arise when multiple carriers deploy multiple technologies over the same facilities. We encourage the industry, through its standards bodies, to continue its independent efforts to develop long-term standards and practices for spectrum management. We expect that the industry will conduct this ongoing role in a expeditious, fair and open manner.

14. We ask commenters to address any additional measures the Commission could take to ensure that spectrum compatibility and management concerns are resolved in a fair and expeditious manner. We also ask commenters to consider what measures the Commission could take to ensure that spectral compatibility requirements are forward-looking and able to evolve over time to encourage, rather than stifle, innovation and deployment of advanced services.

B. Line Sharing

1. Overview

15. In the *Advanced Services Order and NPRM*, we sought comment on whether two different service providers should be allowed to offer services over the same line, with each provider utilizing different frequencies to transport voice or data over that line. We asked commenters whether we should mandate such line sharing, specifically whether the competitive LEC should have the right to run high frequency data signals, or other advanced services, over the same line as the incumbent LEC's voice signal.

16. Shared line access makes it possible for a competing carrier to offer advanced services over the same line that a consumer uses for voice service without requiring the competing carrier to take over responsibility for providing the voice service. Such shared line access would enable new entrants to focus solely on the advanced services market without having to acquire the resources or the expertise to provide other types of telecommunications services, such as analog voice service. Shared line access could also remove

any cost disadvantage that an advanced services only provider might face if it had to provide advanced services over a stand-alone line. A competitive LEC, therefore, may want to take advantage of the ability of advanced services technology, such as ADSL, to run on the frequency above the analog voice channel by providing only high-speed data service, without voice service, over a loop.

17. We believe each end user customer should be able to choose from a broad array of services and from whom to obtain these services. In particular, we believe allowing consumers to keep their voice service provider while allowing them to obtain advanced services on the same line from a different provider will foster consumer choice and promote innovation and competitive deployment of advanced services.

18. Line sharing assumes that a requesting carrier will have access to the incumbent LEC's local loop. While the Supreme Court, in *Iowa Utilities Board*, has directed the Commission to reevaluate the standard for defining the local loop as an unbundled network element, we see no reason to delay seeking comment in this proceeding on whether competing carriers may have access to the high frequency portion on an incumbent LEC's loop. To the extent that any redefinition of the local loop, or other network elements, affects any conclusions drawn from this proceeding, we will revise our analysis and conclusions accordingly.

2. Discussion

19. The existing record indicates that incumbent LECs have denied competitors the option of offering advanced services over the same line on which the incumbent LEC provides voice service.

20. We decline, however, to mandate line sharing at the federal level at this time under the accompanying Report and Order. Although we find no evidence that line sharing is not technically feasible, we find that the record does not sufficiently address the operational, pricing, and other practical issues that may arise if LECs are compelled to share lines with competitors. We acknowledge that the Commission has concluded that a ''determination of technical feasibility does not include consideration of economic, accounting, billing, space, or site, concerns.'' Several incumbent LECs have raised, however, billing, accounting, and other operational issues, that we would like to consider before we determine whether to mandate line sharing nationwide. While none of the issues raised by the incumbents challenge the technical feasibility of line sharing, we believe that there may be practical considerations that have not been adequately addressed in the existing record. Moreover, there may be policy considerations that weigh against line sharing, even if the Commission were to conclude that technical and operational concerns could be met. As a result, we seek additional comments in the Further NPRM in order to develop a more comprehensive record on the policy and practical ramifications of federally mandated line sharing, including any policy considerations that weigh against line sharing.

a. Authority to Require Line Sharing

21. In *Iowa Utilities Board*, the Supreme Court held that we have jurisdiction to implement the local competition provisions of the Act and that our rulemaking authority extends to sections 251 and 252. We therefore tentatively conclude that we have authority to require line sharing. We seek comment on this tentative conclusion. Finally, we tentatively conclude that nothing in the Act, our rules, or caselaw precludes states from mandating line sharing, regardless of whether the incumbent LEC offers line sharing to itself or others, and regardless of whether it offers advanced services. We seek comment on these tentative conclusions.

b. Access to ''High-Frequency Portion'' of the Loop

22. We tentatively conclude that incumbent LECs must provide requesting carriers with access to the transmission frequencies above that used for analog voice service on any lines that LECs use to provide exchange service when the LEC itself provides both exchange and advanced services over a single line. We tentatively conclude that, without such a ruling, competitive LECs will be hampered in their ability to compete in providing advanced services to end users because the competitive LEC would have to obtain a new line from the incumbent LEC in order to provide advanced services whereas the incumbent LEC could provide advanced services far less expensively by using the existing line. We seek comment on these tentative conclusions. Moreover, in the absence of line sharing, the competing carrier effectively may be forced to provide both voice and data over the local loop it leases from the incumbent. This means that the competing carrier potentially must invest in two technologies—circuit switched technology for voice transmissions and packet switched technologies for data. The competing carrier may need to make this investment in circuit technology even though that technology may become obsolete over time. We seek comment on the extent to which the absence of line sharing requires such dual investment and the competitive effect of such dual investment.

23. We also seek comment in this proceeding on whether we should more precisely define what constitutes the frequency above that used for analog voice service, so that it is clear to all parties what the incumbent must unbundle, in the event we require line sharing. We ask commenters to address whether setting a specific dividing line between a low frequency channel and a high frequency channel on the loop would arbitrarily freeze technological development and deny carriers opportunities to use the loop to provision services that rely on different frequencies bands within the loop.

24. We also tentatively conclude that any rules we adopt on line sharing should not mandate a particular technological approach to the use of a line for multiple services. We believe that shared line access is a rapidly evolving technology and any rules we adopt must be forward-looking and flexible enough to stimulate, rather than stifle, technological innovation. We ask commenters to address how we can construct regulations that promote local competition and technological innovation so that American consumers can take full advantage of the line's features, functionalities, and capabilities.

c. Technical, Operational, Economic, Pricing, and Cost Allocation Issues Associated with Line Sharing

25. The current record in this proceeding reveals that incumbent LECs have opposed line-sharing with xDSL-based providers on the grounds that simultaneous provision of advanced service and voice service over a single line by separate providers is not technically feasible. These parties broadly argue that allowing new entrants to acquire rights to the high frequency channel of the line, while declining to purchase the voice channel of the line, would harm the network. We find that incumbent LECs have placed nothing on the record in this proceeding demonstrating that a competitor's advanced services equipment is likely to cause any network problems.

26. *Technical Issues.* We find nothing in the existing record to persuade us that line sharing is not technically feasible. In fact, incumbent LECs are

already sharing the line for the provision of both voice and advanced services. Because incumbent LECs are already using single lines to provide both voice and advanced services and are even sharing lines with other providers for the provision of both voice and advanced services, it appears that there exists no bona fide issue of technical infeasibility. As such, we tentatively conclude that line sharing is technically feasible. We seek comment on this tentative conclusion.

27. Although not set forth in the record, we can conceive of some circumstances in which advanced services cannot share a line with analog voice service. We tentatively conclude that such isolated situations can be remedied and should not interfere with the incumbent's general obligation to share the line. We tentatively conclude that, to the extent that an incumbent LEC can demonstrate to the state commission that digital loop conditioning would interfere with the analog voice service of the line, line sharing is not technically feasible on that particular line, and the incumbent is not obligated to share that line. We tentatively conclude that incumbent LECs would be required to perform other sorts of conditioning, such as removing bridge taps or cleaning up splices along the loop, that would not interfere with the analog voice signal. We seek comment on these tentative conclusions. We ask commenters to address any other technical problems that may arise in line sharing arrangements and to suggest remedies for such problems.

28. *Operational Issues.* In addition to technical feasibility concerns, commenters raise concerns about operational barriers to line sharing. We ask commenters to discuss the operational issues that may arise with line sharing. For example, what effect will line sharing have on existing analog voice service? Should carriers be allowed to request just the voice channel of a line? Should carriers be allowed to request any unused portion of a line? How will line sharing affect existing and evolving operations support systems? To what extent will LEC operations support systems needed to be modified in order to allow two carriers to share a line? Which entity should manage the multiplexing equipment if two carriers are offering services over the same loop? Should different customers be allowed on the same physical loop? How and by whom should problems on the line be handled? What happens if conditioning a loop for advanced services requires removal of repeaters or load coils, which are needed to preserve the quality of the analog voice signal? These examples are merely illustrative of issues that may arise from two carriers providing services over the same line. We ask commenters to address these issues and any other operational, administrative, and pricing concerns with specificity.

29. *Economic, Pricing, and Cost Allocation Issues.* We also seek comment on the economic, pricing, and cost allocation issues that may arise from line sharing. For example, how might line sharing affect federal and state access charge regimes and universal service mechanisms? What are the pricing consequences of requiring line sharing (*e.g.*, what consequences will line sharing have on the price of the unbundled local loop)? Should the entire cost of the loop be imputed to the voice channel or divided equally or otherwise between the two services sharing the facility? What cost allocation issues, if any, are raised by line sharing? What effect will line sharing have on new entrants' ability to compete with incumbents? How will line sharing stimulate or retard innovation? How will line sharing affect investment in local exchange facilities?

30. Finally, we ask commenters to address the continued viability of line sharing arrangements as telecommunications network architectures migrate from a circuit to a packet environment. As carriers deploy ATM and other packet technologies, and as voice traffic moves from the circuit-switched network to Internet Protocol (IP) or ATM networks, is a line sharing requirement commercially or technically feasible? Commenters should address whether a competitive LEC's ability to deliver voice service over a packet-switched network obviates the need to share a loop with the incumbent LEC.

C. Procedural Matters

1. Ex Parte Presentations

31. The matter in Docket No. 98–147, initiated by the Further NPRM portion of this item, shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.

2. Initial Paperwork Reduction Act Analysis

32. The Further NPRM contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Notice; OMB comments are due June 29, 1999. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

3. Initial Regulatory Flexibility Analysis

33. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible impact on small entities of the proposals suggested in this document. The IRFA is set forth in the Appendix. Written public comments are requested with respect to the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the NPRM, but they must have a separate and distinct heading, designating the comments as responses to the IRFA. The Office of Public Affairs, Reference Operations Division, will send a copy of this NPRM , including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

4. Comment Filing Procedures

34. The proceeding, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147, is initiated by the Further NPRM portion of this item. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 15, 1999 and reply comments on or before July

15, 1999. All filings should refer *only* to Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CC Docket No. 98–147. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

35. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th St. S.W., Room TW–A325, Washington, D.C. 20554.

36. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C., 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY–A257, Washington, DC 20554.

37. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage that parties track the organization set forth in this NPRM in order to facilitate our internal review process.

38. Written comments by the public on the proposed information collections are due on or before June 15, 1999 and reply comments on or before July 15, 1999. Written comments must be submitted by the OMB on the proposed information collections on or before 60 days after date of publication in the **Federal Register**. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

5. Further Information

39. For further information regarding this proceeding, contact Michael Pryor, Deputy Division Chief, Policy and Program Planning Division, Common Carrier Bureau, at 202–418–1580 or mpryor@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

VI. Ordering Clauses

40. It is ordered that, pursuant to sections 1–4, 10, 201, 202, 251–254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 201, 202, 251–254, 256, 271, and 303(r), the Further Notice of Proposed Rulemaking is hereby adopted.

41. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Initial Regulatory Flexibility Analysis

1. As required by Section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (Further NPRM). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice. The Commission will send a copy of the Further NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Admininistration in accordance with section 603(a) of the Flexibility Act.

I. Need for and Objectives of the Proposed Rule

2. The Commission is issuing the Further NPRM to seek comment on issues related to spectral compatibility and spectral management. We ask commenters to consider whether the Commission should establish rules for deployment of central office equipment similar to those set forth in part 68 of our rules. We also ask commenters to address the technical, operational, pricing, legal or policy ramifications of line sharing. We tentatively conclude that there are no technical, legal, regulatory or policy obstacles to line sharing among competing carriers. Further, we seek comment on our tentative conclusions that incumbent LECS must provide requesting carriers with unbundled access to the transmission frequencies above that used for analog voice service on any loops that LECs use to provide exchange service when the LEC itself provides both exchange and advanced services over a single loop. We ask commenters to address any other technical problems that may arise in line sharing arrangements and to suggest remedies for such problems.

II. Legal Basis

3. The legal basis for any action that may be taken pursuant to the Further NPRM is contained in sections 1–4, 10, 201, 202, 251–254, 271, and 303(r) of the Communications Act as amended, 47 U.S.C. 151–154, 160, 201, 202, 251–254, 271, and 303(r).

III. Description and Estimates of the Number of Small Entities Affected by the Further Notice of Proposed Rulemaking

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposals in this Further NPRM, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any

additional criteria established by the Small Business Administration (SBA).

5. Below, we further describe and estimate the number of small entities that may be affected by the proposals in this Further NPRM, if adopted.

6. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia*, local exchange carriers (LECs), wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

7. The SBA has defined establishments engaged in providing ''Telephone Communications, Except Radiotelephone'' to be small businesses when they have no more than 1,500 employees. Below, we discuss the total estimated number of telephone companies and small businesses in this category, and we then attempt to refine further those estimates.

8. Although some affected incumbent LEC may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by the SBA as ''small business concerns.''

9. Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small LECs. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed rules, if adopted.

10. *Competitive LECs.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive LECs. The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of competitive LECs nationwide is the data that we collect annually in connection with the TRS Worksheet. According the most recent *Telecommunications Industry Revenue* data, 109 companies reported that they were engaged in the provision of either competitive local exchange service or competitive access service, which are placed together in the data. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of competitive LECs that would qualify as small business concerns under the SBA definition. Consequently, we estimate that there are fewer than 109 small competitive LECs or competitive access providers.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

11. We were unable to gather a sufficient record on the development of rules relating to procedures for equipment testing and compliance, so we seek additional comments on this issue. We are seeking comments on whether the Commission should establish rules for deployment of central office equipment similar to those set forth in Part 68 of our rules. We also ask commenters to address whether the Commisison should be involved with the actual testing and compliance procedures or whether the industry is better suited to serve this function through the use of independent and accredited labs. We ask commenters to address any additional measures the Commission could take to ensure that spectrum compatibility and management concerns are resolved in a fair and expeditious manner. We seek comment on the level of demand for line sharing, and on technical and operational obstacles to sharing a single loop between two service providers.

V. Significant Alternatives to Proposed Rule Which Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Accomplish Stated Objectives

12. In this Further NPRM, we seek to develop a record sufficient enough to adequately address issues related to developing long-term standards and practices for spectral compatibility and management. In addressing these issues, we seek to ensure that competing carriers, including small entity carriers, obtain access to inputs necessary to the provision of advanced services. We tentatively conclude that our proposals in the Further NPRM would impose minimum burdens on small entities. We seek comment on these proposals and the impact they may have on small entities.

VI. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule

13. None.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–125, RM–9542]

Radio Broadcasting Services; Huntington, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 296C2 at Huntington, Utah, as the community's first local broadcast service. The channel can be allotted to Huntington without a site restriction at coordinates 39–19–36 NL and 110–57–50 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the